

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE ORDER NO. R9-2003-0140
NPDES PERMIT NO. CA 0109193**

**WASTE DISCHARGE REQUIREMENTS
FOR
IDEC PHARMACEUTICALS CORPORATION
NEW IDEC MANUFACTURING OPERATIONS (NIMO)
SAN DIEGO COUNTY**

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TENTATIVE ORDER NO. R9-2003-0140

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The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. IDEC Pharmaceuticals Corporation (IDEC) proposes a new manufacturing facility in San Diego County. The new facility will be known as New IDEC Manufacturing Operations (NIMO) and will be located at 1950 Corporate Center Dr, Oceanside, CA 92056. The facility will be located in Section 16, T11S, R4W, SBB&M, in the *Loma Alta Hydrologic Area (904.10) of the Carlsbad Hydrologic Unit (904.00)*.
2. On February 18, 2003, IDEC submitted a Report of Waste Discharge (RWD) for a National Pollutant Discharge Elimination System (NPDES) permit for the proposed discharge of 155,000 gallons per day (maximum flow rate) of brine and other wastes associated with water softening and purification processes and other non-industrial maintenance type activities (including cooling tower, boiler, and vapor compression stills blowdowns) from the proposed NIMO facility. The combined waste discharges regulated under this NPDES permit will be routed to the Pacific Ocean through the Oceanside Ocean Outfall (OOO).
3. By letters dated February 28 and March 28, 2003, the Regional Board deemed IDEC's NPDES application incomplete and requested additional documentation and clarifications. IDEC submitted the requested information on April 18, 2003. The Regional Board deemed IDEC's application complete on April 24, 2003.
4. The proposed discharges of brine and other wastes from the NIMO facility could cause minor degradation of water quality or minor impairment of designated beneficial uses. These discharges are not expected to cause significant pollution, contamination, or nuisance; adversely impact human health or the environment; cause or contribute to violation of an applicable water quality objectives of the waters of the state and waters of the United States, including the Pacific Ocean.
5. Effluent from the NIMO site will be first discharged to a new 14" brine line, constructed and owned by the City of Oceanside (City). The 14" brine line will tie into the existing 24" Oceanside Land Outfall (OLO). Flows from the OLO will be routed to the OOO for disposal to the Pacific Ocean.
6. The OOO extends southwesterly from the mouth of Loma Alta Creek in the City of Oceanside. The inshore end of the diffuser is located approximately 8,050 feet offshore at a depth of approximately 102 feet. The diffuser, which is collinear with the rest of the outfall, is approximately 230 feet long

and extends to a depth of approximately 108 feet. The terminus of the diffuser is located at Latitude 33° 09' 46" North, Longitude 117° 23' 28" West. The design capacity of the OOO is 30 MGD (average daily flow), with a maximum rated peak day capacity of 45 MGD.

7. The combined, untreated, waste discharge from the NIMO facility will consist of a maximum flow rate of 155,000 gallons per day (gpd) of brine and wastewater from backwash/rinse/resin regeneration of water softening units, backwash/rinse of multimedia and carbon filters, blowdowns conducted on cooling towers, boilers, and vapor compression stills, and from test flows of clean steam generators.
8. The OOO is currently permitted to accept 23.4 MGD of average daily flows. These include 21 MGD of effluent from the City of Oceanside's San Luis Rey and La Salina Wastewater Treatment Plants and the Mission Basin brackish groundwater desalinization facility (Order No. 2000-11) and 2.4 MGD of waste discharges from the Fallbrook Public Utility District's (FUPD) Treatment Plant No. 1 (Order No. 2000-12). The United States Marine Corp Base – Camp Pendleton (USMCB CP) is proposing to discharge 3.6 MGD of combined average daily flows from its four Santa Margarita River wastewater treatment plants (Plant Nos. 1, 2, 3, & 13) through the OOO (tentative Order No. R9-2003-0155). Tentative Order No. R9-2003-0155 is scheduled to be presented for the Regional Board's consideration during its August 2003 meeting. The addition of the 155,000 gpd of waste discharges from the NIMO facility will increase the permitted average daily flows from all existing and proposed contributory sources in the OOO to 27.16 MGD.
9. The Ocean Plan allows the use of a minimum probable initial dilution factor, D_m (expressed as parts seawater per part wastewater), for calculation of effluent limitations for the priority pollutant water quality objectives listed in Table B of the Ocean Plan. Order No. 2000-11 (City of Oceanside) and Order No. 2000-12 (FPUD), for the discharge through the OOO, include a D_m of 82. The D_m for the OOO was calculated using the Plumes model. Effluent limitations for those Orders were calculated using the D_m of 82.

In March 2001 the State Water Resources Control Board (SWRCB) staff completed a revised modeling assessment of the D_m for the OOO, using the UM3 model. SWRCB staff calculated a D_m of 76 for the combined flow from FPUD and Oceanside and staff noted that the Zone of Initial Dilution (ZID) extends approximately 78 feet from each diffuser port. SWRCB staff calculated a D_m of 77 for current and proposed combined flows, which included the United States Marine Corp Base – Camp Pendleton's (USMCB CP) proposed 3.6 MGD discharge. SWRCB staff commented that the difference in dilution was less than the resolution of the model, and therefore considered the increase in flow to be "incidental and not of consequence." Considering the variability in the entry parameters and the resolution of the model, the D_m was set to 80.

The expected maximum salinity (20 parts per thousand) and maximum daily flow rate (155,000 gpd) of the discharge from the NIMO facility is not expected to impact the calculated D_m value for the OOO. The D_m value of 80 is appropriate and is incorporated in Order No. R9-2003-0140.

10. Pursuant to Title 23, Section 2200, California Code of Regulations (CCR), the Regional Board has determined that the IDEC – NIMO facility has a threat to water quality (TTWQ) / complexity (CPLX) rating of 3/B. TTWQ is based on a facility's operations and its potential discharges of pollutants into a receiving water body. CPLX is a measure of the complexity of regulating a facility.

11. The *Comprehensive Water Quality Control Plan, San Diego Basin (9)* (Basin Plan) was adopted by the Regional Board on September 8, 1994 and approved by the State Board. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board.

The Basin Plan identifies the following beneficial uses of State ocean waters to be protected:

1. Industrial service supply
2. Navigation
3. Water contact recreation
4. Noncontact water recreation
5. Commercial and sport fishing
6. Preservation of biological habitats of special significance
7. Rare, threatened, or endangered species
8. Marine habitat
9. Aquaculture
10. Migration of aquatic organisms
11. Spawning, reproduction, and/or early development
12. Shellfish harvesting
13. Wildlife habitat

The Basin Plan relies primarily on the requirements of the Ocean Plan for protection of the beneficial uses of the State ocean waters. The Basin Plan, however, establishes additional water quality objectives for dissolved oxygen and pH, applicable to ocean waters.

12. The State Water Resources Control Board (hereinafter State Board) adopted a revised 2001 Water Quality Control Plan for Ocean Waters of California (Ocean Plan) on November 16, 2000. The 2001 Ocean Plan was approved by USEPA on December 3, 2001. The Ocean Plan identifies the following beneficial uses of State ocean waters to be protected:

1. Industrial water supply
2. Navigation
3. Water contact recreation
4. Non-contact water recreation
5. Ocean commercial and sport fishing
6. Preservation and enhancement of Areas of Special Biological Significance (ASBS)
7. Preservation of rare and endangered species
8. Marine habitat
9. Mariculture
10. Fish migration
11. Fish spawning
12. Shellfish harvesting
13. Aesthetic enjoyment

In order to protect these beneficial uses, the Ocean Plan establishes water quality objectives (for bacterial, physical, chemical, and biological characteristics, and for radioactivity), general requirements for management of waste discharged to the ocean, quality requirements for waste discharges (effluent quality requirements), discharge prohibitions, and general provisions.

13. The brine/wastewater discharges from the processes/activities covered under this Order (including backwash/rinse/resin regeneration of water softening units, backwash/rinse of multimedia and carbon filters, blowdowns conducted on cooling towers, boilers, and vapor compression stills and test flows from clean steam generators) are not expected to contain significant concentrations of toxic metals or priority pollutants listed in *Table B* of the Ocean Plan. The Order includes effluent limitations for Whole Effluent Toxicity (WET) (acute and chronic). The WET limits are calculated using Equations 1 & 2 listed in Section C.3 (*Implementation Provisions for Table B*) of the Ocean Plan, in conjunction with a Dm value of 80.
3. No wastes produced by or in conjunction with the biologics manufacturing processes (including cell culture production and harvesting, recovery and purification, and formulation) at the NIMO facility will be regulated under this Order. All wastewater produced by the biologics manufacturing processes will be discharged to the City of Oceanside's (City's) sanitary sewer system will be subject to federal regulations for pretreatment including 40 CFR 403 (*General Pretreatment Regulations for Existing and New Sources of Pollution*) and 40 CFR 439.17 (*Pharmaceutical Manufacturing Point Source Category – Fermentation Products Subcategory – Pretreatment Standards for New Sources*). The discharges to the City's sanitary sewer system will be regulated under an Industrial Wastewater Discharge Permit issued to IDEC by the City's Water Utilities Department
4. Section 303(d) of the Clean Water Act requires States to identify waters that do not meet water quality standards after applying certain required technology-based effluent limits ("impaired" water bodies). States are required to compile this information in a list and submit the list to USEPA for review and approval. This list is known as the Section 303(d) list of impaired waters. As part of this listing process, States are required to prioritize waters/watersheds for future development of total maximum daily load (TMDL). The area of the Pacific Ocean in the vicinity of the OOO diffuser is not designated as an "impaired" water body and is therefore not subject to the development of TMDL.
5. The provisions of *Section 3.B.1 (Coastal Waters, New Discharges)* of the *State Water Quality Control Plan for Control of Temperature in Coastal and Interstate Waters and Enclosed Bays and Estuaries of California* (Thermal Plan) have been incorporated into the Order.
6. Storm water discharges associated with industrial activities from IDEC's NIMO site will be regulated pursuant to the *Statewide General Industrial Storm Water Permit (SWRCB Water Quality Order No. 97-03-DWQ NPDES General Permit No. CAS000001, Waste Discharge Requirements for Storm Water Associated with Industrial Activities Excluding Construction Activities, April 17, 1997)*. The NIMO site has been assigned a WDID identification number of 9 37I017431.
7. Pursuant to 40 CFR 131.12 and State Board Resolution No. 68-16, *Statement of Policy With Respect to Maintaining High Quality of Waters in California* (collectively "Antidegradation policies"), antidegradation analysis is not necessary since this Order is expected to protect existing beneficial receiving water uses of the Pacific Ocean. Furthermore, water quality objectives and effluent limits derived from the Ocean Plan and Basin Plan have been incorporated into the Order. The compliance with these limits will ensure

that water quality of the receiving water is maintained and protected and not subject to degradation.

8. On August 23, 1999, the City of Oceanside approved the Negative Declaration for the Master Development Plan and Master Tentative Tract Map for the Ocean Ranch Corporate Centre Project. The Negative Declaration was prepared under the California Environmental Quality Act (Public Resources Code Section 21000 et seq. The Negative Declaration is applicable to the IDEC Pharmaceuticals Corporation's NIMO facility which is located within the Ocean Ranch Corporate Centre Project and will implement a portion of the approved Ocean Ranch Corporate Centre Project Master Development Plan.
9. The Regional Board, in establishing the requirements contained herein, considered factors including, but not limited to the following:
 - a. The beneficial uses to be protected and the water quality objectives required to meet these beneficial uses;
 - b. Past, present and probable future beneficial uses of water;
 - c. Environmental characteristics of the receiving water under consideration, including the quality of those receiving waters;
 - d. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area;
 - e. Economic considerations;
 - f. The need for developing housing within the region;
 - g. The need to prevent nuisance;
 - h. The need to develop and use recycled water; and
 - i. Other waste discharges.[California Water Code (CWC) § 13263 & 13241]
10. This Order shall be modified or revoked at any time if, on the basis of any data, the Regional Board determines that continued discharges may cause unreasonable degradation of the aquatic environment.
11. This Order does not preempt or supersede the authority of municipalities, flood control agencies, or other local agencies to further prohibit, restrict, or control discharges to sanitary sewer systems, storm drain systems, or other watercourses subject to their jurisdiction.
12. The Regional Board has notified interested parties of its intent to issue waste discharge requirements for IDEC's NIMO facility and has provided them with an opportunity to submit their comments. [CWC § 13378 & 13384]
13. The Regional Board, in a public meeting, heard and considered all comments pertaining to waste discharge requirements for discharges from IDEC's NIMO facility. [CWC § 13378 & 13384]

IT IS HEREBY ORDERED, that IDEC Pharmaceuticals Corporation (hereinafter discharger), in order to meet the provisions contained in Division 7 of the California Water Code and regulations

adopted thereunder and the provisions of the Clean Water Act and the regulations adopted thereunder, shall comply with the following requirements for the waste discharge from the NIMO facility to the Pacific Ocean through the Oceanside Ocean Outfall:

A. PROHIBITIONS

1. Discharges of wastes in a manner or to a location which have not been specifically authorized by this Order and for which valid waste discharge requirements are not in force are prohibited.
2. The discharge of any radiological, chemical, or biological warfare agent, or high level radiological waste to the ocean is prohibited.
3. The dumping or deposition, from shore or from vessels, of oil, garbage, trash or other solid municipal, industrial, or agricultural waste directly into waters subject to tidal action or adjacent to waters subject to tidal action in any manner which may permit it to be washed into waters subject to tidal action, is prohibited.
4. Pipeline discharge of sludge to the ocean is prohibited by federal law; the discharge of municipal and industrial waste sludge directly to the ocean, or into a waste stream that discharges to the ocean, is prohibited.
5. The discharge of polychlorinated biphenyl compounds, such as those used for transformer fluid, is prohibited.
6. Waste shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.
7. Compliance with Discharge Prohibitions, as stated in *Chapter III.H* of the 2001 Ocean Plan (Attachment No. 1) is required as a condition of this Order.
8. Compliance with Discharge Prohibitions contained in *Chapter 4* of the 1994 Basin Plan (Attachment No. 2) is required as a condition of this Order.
9. The bypassing of untreated wastes containing concentrations of pollutants in excess of those in Ocean Plan *Table A* or *Table B* or the effluent limitations of this Order to the ocean is prohibited, except as provided for in *Provision D.13* of this Order.

B. DISCHARGE SPECIFICATIONS

1. The following effluent limitations shall apply to combined discharges from the NIMO site that will be conveyed to the Pacific Ocean via the Oceanside Ocean Outfall:

Constituent/ Property	Units	Monthly Average Limit ¹ (30-day average)	Maximum Daily Limit ²
Flow	gallons per day	--	155,000
Grease & Oil	mg/l	25	75
	lbs/day ³	33	100
Total Suspended Solids	mg/l	30	50
	lbs/day ³	40	67
Settleable Solids	ml/l	1.0	3.0
Turbidity	NTU	75	225
pH	pH units	Within limits of 6.0 – 9.0 at all times	
Acute Toxicity	TUa	N/A	2.7 ⁴
Chronic Toxicity	TUc	N/A	81 ⁵
Temperature	F	Not more than 20° F greater than natural temperature of receiving waters.	

2. Waste management systems (e.g. wastewater/brine treatment systems and waste storage facilities) that discharge to the ocean must be designed, constructed, operated, and maintained in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.
3. Waste discharged from the NIMO facility through the Oceanside Ocean Outfall must be essentially free of:
 - a. Material that is floatable or will become floatable upon discharge.
 - b. Settleable material or substances that may form sediments which will degrade benthic communities or other aquatic life.
 - c. Substances which will accumulate to toxic levels in marine waters, sediments, or biota.
 - d. Substances that significantly decrease the natural light to benthic communities and other marine life.

- e. Materials that result in aesthetically undesirable discoloration of the ocean surface.
4. Location of waste discharges must be determined after a detailed assessment of the oceanographic characteristics and current patterns to assure that:
- a. Pathogenic organisms and viruses are not present in areas where shellfish are harvested for human consumption or in areas used for swimming or other body-contact sports.
 - b. Natural water quality conditions are not altered in areas designated as being of special biological significance or areas that existing marine laboratories use as a source of seawater.
 - c. Maximum protection is provided to the marine environment.

Waste that contains pathogenic organisms or viruses should be discharged a sufficient distance from shellfishing and water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided.

- 5. All waste treatment, containment, and disposal facilities shall be protected against 100-year peak stream flows as defined by the San Diego County flood control agency.
- 6. All waste treatment, containment, and disposal facilities shall be protected against erosion, overland runoff, and other impacts resulting from a 100-year frequency 24-hour storm.
- 7. Waste discharged through the Oceanside Ocean Outfall shall be discharged in a manner that provides sufficient initial dilution to minimize the concentrations of substances not removed in treatment.
- 8. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Regional Board.
- 9. The discharge of substances for which effluent limitations are not established by this Order shall be prevented or, if the discharge cannot be prevented, minimized.

C. RECEIVING WATER LIMITATIONS

- 1. The discharge of waste through the Oceanside Ocean Outfall shall not, by itself or jointly with any other discharge, cause violation of the following Ocean Plan ocean water quality objectives. Compliance with the water quality objectives shall be determined, if needed, from samples collected at stations representative of the area within the waste field where initial dilution is completed.
 - a. Bacterial Characteristics
 - (1) Water-Contact Standards

Within a zone bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, and in areas outside this zone used for water-contact sports, as determined by the Regional Board, but including all kelp beds, the following bacterial objectives shall be maintained throughout the water column:

- (a) Samples of water from each sampling station shall have a density of total coliform organisms less than 1,000 per 100 ml (10 per ml); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 per 100 ml (10 per ml), and provided further that no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 per 100 ml (100 per ml).
- (b) The fecal coliform density based on a minimum of not less than five samples for any 30-day period, shall not exceed a geometric mean of 200 per 100 ml nor shall more than 10 percent of the total samples during any 60-day period exceed 400 per 100 ml.

The "Initial Dilution Zone" of wastewater outfalls shall be excluded from designation as kelp beds for purposes of bacterial standards. Adventitious assemblages of kelp plants on waste discharge structures (e.g., outfall pipes and diffusers) do not constitute kelp beds for purposes of bacterial standards. Kelp beds, for the purpose of the bacterial standards of this Order, are significant aggregations of marine algae of the genera Macrocystis and Nereocystis. Kelp beds include the total foliage canopy of Macrocystis and Nereocystis plants throughout the water column.

(2) Shellfish Harvesting Standards

At all areas where shellfish may be harvested for human consumption, as determined by the Regional Board, the following bacterial objectives shall be maintained throughout the water column:

The median total coliform density shall not exceed 70 per 100 ml, and not more than 10 percent of the samples shall exceed 230 per 100 ml.

b. Bacterial Assessment and Remedial Action Requirements

The requirements listed below shall be used to 1) determine the occurrence and extent of any impairment of a beneficial use due to bacterial contamination; 2) generate information which can be used in the development of an enterococcus standard; and 3) provide the basis for remedial actions necessary to minimize or eliminate any impairment of a beneficial use.

Measurement of enterococcus density shall be conducted at all stations where measurement of total and fecal coliforms are required. In addition to the requirements

of *Receiving Water Limitation C.1.a* of this Order, if a shore station consistently exceeds a coliform objective or exceeds a geometric mean enterococcus density of 24 organisms per 100 ml for a 30-day period or 12 organisms per 100 ml for a six-month period, the Regional Board shall require the discharger to conduct or participate in a survey to determine the source of the contamination. The geometric mean shall be a moving average based on no less than five samples per month, spaced evenly over the time interval. When a sanitary survey identifies a controllable source of indicator organisms associated with a discharge of sewage, the Regional Board may require the discharger

and any other responsible parties identified by the Regional Board to take action to control the source.

c. Physical Characteristics

- (1) Floating particulates and grease and oil shall not be visible.
- (2) The discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface.
- (3) Natural light shall not be significantly reduced at any point outside the initial dilution zone as a result of the discharge of waste.
- (4) The rate of deposition of inert solids and the characteristics of inert solids in ocean sediments shall not be changed such that benthic communities are degraded.

d. Chemical Characteristics

- (1) The dissolved oxygen concentration shall not at any time be depressed more than 10 percent from that which occurs naturally, as a result of the discharge of oxygen-demanding waste materials.
- (2) The pH shall not be changed at any time more than 0.2 units from that which occurs naturally.
- (3) The dissolved sulfide concentration of waters in and near sediments shall not be significantly increased above that present under natural conditions.
- (4) The concentration of substances, set forth in *Receiving Water Limitation C.3* of this Order, in marine sediments shall not be increased to levels which would degrade indigenous biota.
- (5) The concentration of organic materials in marine sediments shall not be increased to levels that would degrade marine life.
- (6) Nutrient materials shall not cause objectionable aquatic growths or degrade

indigenous biota.

e. Biological Characteristics

- (1) Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.
- (2) The natural taste, odor, and color of fish, shellfish, or other marine resources used for human consumption shall not be altered.
- (3) The concentration of organic materials in fish, shellfish, or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health.

f. Radioactivity

Discharge of radioactive waste shall not degrade marine life.

2. Toxic Materials

The discharge through the Oceanside Ocean Outfall shall not by itself or jointly with any other discharge, cause water quality objectives found in *Table B* of the Ocean Plan to be exceeded in the receiving water upon completion of initial dilution, except that limitations indicated for radioactivity shall apply directly to the undiluted waste effluent.

D. PROVISIONS

1. The discharger shall comply with the *Standard Provisions* listed in Attachment No. 3.
2. Neither the treatment nor the discharge of waste shall create a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code.
3. The discharger must comply with all conditions of this Order. Any permit noncompliance constitutes a violation of the CWA and the California Water Code and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a report of waste discharge submitted in application for permit modification or reissuance.
4. The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncomplying discharge.
5. This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - a. Violation of any terms or conditions of this Order;

- b. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts;
or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the discharger for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.

- 6. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, the Regional Board may institute proceedings under these regulations to modify or revoke and reissue the Order to conform to the toxic effluent standard or prohibition.
- 7. This Order does not convey any property rights of any sort or any exclusive privilege. The requirements prescribed herein do not authorize the commission of any act causing injury to persons or property, nor protect the discharger from liabilities under federal, state, or local laws, nor create a vested right for the discharger to continue the waste discharge.
- 8. The discharger shall allow the Regional Board, or any authorized Regional Board representative, or any authorized representative of the USEPA (including an authorized contractor acting as a representative of the Regional Board or USEPA), upon presentation of credentials and other documents as may be required by law, to:
 - a. Enter upon the discharger's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Order;
 - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - d. Sample or monitor, at reasonable times, for the purposes of assuring compliance with this Order, or as otherwise authorized by the CWA or California Water Code, any substances or parameters at any location.
- 9. The discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order which has a reasonable likelihood of adversely affecting human health or the environment.
- 10. The discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance

also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the discharger only when the operation is necessary to achieve compliance with the conditions of this Order.

11. It shall not be a defense for the discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. Upon reduction, loss, or failure of a treatment facility, the discharger shall, to the extent necessary to maintain compliance with this Order, control production or all discharges, or both, until the facility is restored or an alternative method of treatment is provided. This provision applies, for example, when the primary source of power of a treatment facility fails, is reduced, or is lost.
12. Bypass of Treatment Facilities
 - a. Definition

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
 - b. Notice

The discharger shall submit notice of any bypass as required in *Reporting Requirement E.5*.
13. Upset
 - a. Definition

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the reasonable control of the discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - b. Effect of an Upset

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of *paragraph c.* of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 - c. Conditions Necessary for a Demonstration of Upset

A discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

 - (1) An upset occurred and that the discharger can identify the cause(s) of the upset;

- (2) The permitted facility was at the time being properly operated;
- (3) The discharger submitted notice of the upset as required in *Reporting Requirement E.5* of this Order; and
- (4) The discharger complied with any remedial measures required under *Provision D.4* of this Order.

d. Burden of Proof

In any enforcement proceeding the discharger seeking to establish the occurrence of an upset has the burden of proof.

14. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
15. The discharger shall comply with any interim effluent limitations as established by addendum, enforcement action or revised waste discharge requirements which have been or may be adopted by this Regional Board.
16. A copy of this Order shall be maintained in the central offices at the NIMO facility, and shall be available to operating personnel at all times.
17. The discharger shall develop a Toxicity Reduction Evaluation (TRE) workplan in accordance with the TRE procedures established by the U.S. EPA in the following guidance manuals :
 - a. Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (EPA/600/2-88/070).
 - b. Toxicity Identification Evaluation, Phase I (EPA/600/6-91/005F).
 - c. Methods for Aquatic Toxicity Identification Evaluations, Phase II (EPA/600/R-92/080).
 - d. Methods for Aquatic Toxicity Identification Evaluations, Phase III (EPA/600/R-92/081).

The discharger shall submit the TRE workplan to the Regional Board within 180 days of the adoption of this Order. The TRE workplan shall be subject to the approval of the Regional Board and shall be modified as directed by the Regional Board.

18. If toxicity effluent limitations identified in Discharge Specification B.1 of this Order are exceeded, then within 15 days of the exceedence, the discharger shall begin conducting six additional toxicity tests over a six month period and provide the results to the Regional Board. The additional monthly toxicity tests will be incorporated into the semiannual discharge monitoring reports submitted pursuant to MRP No. R9-2003-0140.

If the additional monthly tests indicate that toxicity effluent limitations are being consistently violated, the Regional Board may recommend that the discharger conduct a TRE and a Toxic Identification Evaluation (TIE), as identified in the approved TRE workplan.

Within 15 days of completion of the TRE/TIE, the discharger shall submit the results of the TRE/TIE, including a summary of findings, identified sources of toxicity, a list of corrective actions necessary to achieve consistent compliance with all the toxicity limitations of this Order and prevent recurrence of violations of those limitations and a time schedule for implementation of such corrective actions. The corrective actions and time schedule shall be modified at the direction of the Regional Board.

E. REPORTING REQUIREMENTS

1. Annually, the discharger shall evaluate the data collected pursuant to *Monitoring and Reporting Program No. R9-2003-0140* and determine if the data indicates that the discharge has caused or contributed to an exceedence of applicable water quality objectives or impairment of water quality needed for designated beneficial uses of the Pacific Ocean.
2. The discharger shall file a new Report of Waste Discharge not less than 180 days prior to the following:
 - a. Addition of any industrial waste to the discharge or the addition of a new process or product resulting in a change in the character of the wastes.
 - b. Significant change in disposal method (e.g. change in the method of treatment which would significantly alter the nature of the waste).
 - c. Significant change in disposal area (e.g. moving the discharge to a disposal area significantly removed from the original area, potentially causing different water quality or nuisance problems).
 - d. Increase in flow beyond that specified in this Order.
 - e. Other circumstances, which result in a material change in character, amount, or location of the waste discharge.
3. The discharger shall give advance notice to this Regional Board of any planned changes in the regulated facility or activity, which may result in noncompliance with the requirements of this Order.
4. The discharger must notify this Regional Board, in writing, at least 30 days in advance of any proposed transfer of this facility to a new discharger. The notice must include a written agreement between the existing and new discharger containing a specific date for the transfer of this Order's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgment that the existing discharger is liable for violations up to the transfer date and that the new discharger is liable after the transfer date.
5. The discharger shall report any noncompliance, which may endanger health or the environment orally to this Regional Board within 24 hours from the time the discharger becomes aware of

the circumstances. The following occurrences must be reported to this Regional Board within 24 hours:

- a. Any upset which causes the effluent limitations of this Order to be exceeded; and
- b. Any violation of any prohibition of this Order.

The discharger shall submit to this Regional Board a written follow-up report within 5 days unless this Regional Board explicitly waives submission the written report on a case-by-case basis if the oral report has been received within 24 hours. The written report must contain the following items:

- a description of the noncompliance and its cause;
 - the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
6. The discharger shall furnish to this Regional Board, within a reasonable time, any information which this Regional Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order, or to determine compliance with this Order. The discharger shall also furnish to this Regional Board, upon request, copies of records required to be kept by this Order.
 7. When the discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge, or submitted incorrect information in a Report of Waste Discharge, or in any report to this Regional Board, it shall promptly notify the Regional Board of the failure and submit corrected facts or information.
 8. All applications, reports, or information submitted to this Regional Board shall be signed and certified as follows.
 - a. All Reports of Waste Discharge shall be signed as follows by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
 - b. All reports required by this Order, and other information requested by this Regional Board shall be signed by a person described in *paragraph a.* of this reporting requirement, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (1) The authorization is made in writing by a person described in *paragraph a.* of this reporting requirement;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position

having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and,

(3) The written authorization is submitted to this Regional Board.

- c. If an authorization under *paragraph b.* of this reporting requirement is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph b.* of this reporting requirement must be submitted to this Regional Board prior to or together with any reports, information, or applications to be signed by an authorized representative.
- d. Any person signing a document under *paragraph a.* or *b.* of this reporting requirement shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- 9. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this Order shall be available for public inspection at the offices of the California Regional Water Quality Control Board, San Diego Region and the United States Environmental Protection Agency, Region IX. As required by the Clean Water Act, Reports of Waste Discharge, this Order, and effluent monitoring data shall not be considered confidential.
- 10. The discharger shall submit reports and provide notifications as required by this Order in accordance with the following:

- a. Reports required to be submitted to this Regional Board shall be sent to:

Industrial Compliance Unit
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Notifications required to be provided to this Regional Board shall be made to:

Telephone - (858) 467-2952 or
Facsimile - (858) 571-6972

- b. Reports required to be submitted to the USEPA shall be sent to:

U.S. Environmental Protection Agency
Region IX
Compliance Office (WTR-7)
75 Hawthorne Street
San Francisco, California 94105

F. NOTIFICATIONS

1. California Water Code Section 13263(g) states:

No discharge of waste into the waters of the state, whether or not such discharge is made pursuant to waste discharge requirements, shall create a vested right to continue such discharge. All discharges of waste into waters of the state are privileges, not rights.

2. This Order shall become effective 10 days after the date of its adoption, provided the USEPA Regional Administrator has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
3. This Order expires on August 13, 2008. However, it will continue in force and effect until superseded by a new permit or rescinded.
4. This Order does not include requirements for storm water discharges associated with construction activity. The NIMO site needs to be covered by the statewide general construction storm water permit adopted by the SWRCB (currently Order No. 99-08 DWQ, NPDES General Permit No. CAS000002) for discharges to which that Order applies.
5. Storm water discharges associated with industrial activities from IDEC's NIMO site will be regulated pursuant to the Statewide General Industrial Storm Water Permit (currently Order No. 97-03-DWQ NPDES General Permit No. CAS000001, *Waste Discharge Requirements for Storm Water Associated with Industrial Activities Excluding Construction Activities, April 17, 1997*). The NIMO site has been assigned a WDID identification number of 937I017431.
6. This Order does not apply to discharges of radioactive materials regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

G. ENDNOTE REFERENCES

1. The 30-day average shall be the moving arithmetic mean of daily concentrations over the specified 30-day period.
2. The maximum daily shall apply to flow weighted 24-hour composite samples.

3. The mass emission rate (MER), in pounds per day, shall be obtained from the following calculation for any calendar day:

$$\text{MER (lbs/day)} = 8.34 \times Q \times C$$

where:

Q and C are the flow rate in MGD and the constituent concentration in mg/l, respectively, and 8.34 is the conversion factor. If a composite sample is taken, then C is the concentration

measured in the composite sample and Q is the average flow rate occurring during the period over which the samples are composited.

4. The acute toxicity maximum daily limit was calculated using the water quality objective for acute toxicity listed in *Table B* of the Ocean Plan, in conjunction with Equation 2 (*Section C.3, Implementation Provisions for Table B*) and a minimum initial dilution value (Dm) of 80. The maximum daily acute toxicity (expressed in Toxic Units Acute, TUa) in the discharger's 24-hour composite sample shall be calculated using the following equation:

$$\text{TUa} = \frac{100}{96\text{-hr LC } 50\%}$$

where:

LC 50% or *Lethal concentration 50%* (percent waste giving 50% survival of test organisms) shall be determined by static or continuous flow bioassay techniques using standard marine test species as specified in *Appendix III, Chapter II*, of the Ocean Plan. If specific identifiable substances in wastewater can be demonstrated by the discharger as being rapidly rendered harmless upon discharge to the marine environment, but not as a result of dilution, the LC 50% may be determined after the test samples are adjusted to remove the influence of those substances.

When it is not possible to measure the 96-hour LC 50% due to greater than 50 percent survival of the test species in 100 percent waste, the toxicity concentration shall be calculated by the expression:

$$\text{TUa} = \frac{\log (100 - S)}{1.7}$$

where:

S = percentage survival in 100% waste. If S > 99, TUa shall be reported as zero.

5. The chronic toxicity maximum daily limit was calculated using the water quality objective for chronic toxicity listed in *Table B* of the Ocean Plan, in conjunction with *Equation 1 (Section C.3, Implementation Provisions for Table B)* and a minimum initial dilution value (Dm) of 80.

The maximum daily chronic toxicity (expressed in Toxic Units Acute, TUc) in the discharger's 24-hour composite sample shall be calculated using the following equation:

$$\text{TUc} = \frac{100}{\text{Dm}}$$

NOEL

where:

NOEL or No Observed Effect Level is expressed as the maximum percent effluent or receiving water that causes no observable effect on a test organism, as determined by the result of a critical life stage toxicity test listed in *Appendix II* of the Ocean Plan.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region on August 13, 2003.

TENTATIVE
JOHN H. ROBERTUS
Executive Officer
August 13, 2003

ATTACHMENT NO. 1

2001 OCEAN PLAN **CHAPTER III.H** **DISCHARGE PROHIBITIONS**

1. Hazardous Substances

The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste* into the ocean* is prohibited.

2. Areas Designated for Special Water Quality Protection

Waste* shall not be discharged to designated Areas of Special Biological Significance* except as provided in *Chapter III.E, Implementation Provisions for Areas of Special Biological Significance*, of the Ocean Plan.

3. Sludge

Pipeline discharge of sludge to the ocean* is prohibited by federal law; the discharge of municipal and industrial waste* sludge directly to the ocean, or into a waste stream that discharges to the ocean, is prohibited by the Ocean Plan. The discharge of sludge digester supernatant directly to the ocean, or to a waste stream that discharges to the ocean without further treatment, is prohibited.

It is the policy of the SWRCB that the treatment, use and disposal of sewage sludge shall be carried out in the manner found to have the least adverse impact on the total natural and human environment. Therefore, if federal law is amended to permit such discharge, which could affect California waters, the SWRCB may consider requests for exceptions to this section under *Chapter III.H* of the Ocean Plan, provided further that an Environmental Impact Report on the proposed project shows clearly that any available alternative disposal method will have a greater adverse environmental impact than the proposed project.

4. By-Passing

The by-passing of untreated wastes containing concentrations of pollutants in excess of those in *Table A* or *Table B* of the Ocean Plan to the ocean is prohibited.

*** Please refer to the 2001 California Ocean Plan for further information.**

ATTACHMENT NO. 2

1994 WATER QUALITY CONTROL PLAN **FOR THE SAN DIEGO BASIN** **WASTE DISCHARGE PROHIBITIONS**

California Water Code Section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste, or certain types of waste is not permitted. The following discharge prohibitions are applicable to any person, as defined by Section 13050(c) of the California Water Code, who is a citizen, domiciliary, or political agency or entity of California whose activities in California could affect the quality of waters of the State within the boundaries of the San Diego Region.

1. The discharge of waste to waters of the State in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in California Water Code Section 13050, is prohibited.
2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited.
3. Discharges of recycled water to lakes or reservoirs used for municipal water supply or to inland surface water tributaries thereto are prohibited, unless this Regional Board issues a NPDES permit authorizing such a discharge; the proposed discharge has been approved by the State Department of Health Services and the operating agency of the impacted reservoir; and the discharger has an approved fail-safe long-term disposal alternative.
4. The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. Allowances for dilution may be made at the discretion of the Regional Board. Consideration would include streamflow data, the degree of treatment provided and safety measures to ensure reliability of facility performance.
5. The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board.
6. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board.
7. Any discharge to a storm water conveyance system that is not composed entirely of "storm water" is prohibited unless authorized by the Regional Board. [The federal regulations, 40 CFR 122.26(b)(13), define storm water as storm water runoff, snow melt runoff, and surface runoff and drainage. 40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to a storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a NPDES permit and discharges resulting from fire fighting activities.] [Part 122.26 amended at 56 FR 56553, November 5, 1991; 57 FR 11412, April 2, 1992].

8. The unauthorized discharge of treated or untreated sewage to waters of the State or to a storm water conveyance system is prohibited.
9. The discharge of industrial wastes to conventional septic tank/subsurface disposal systems, except as authorized by the terms described in California Water Code Section 13264, is prohibited.
10. The discharge of radioactive wastes amenable to alternative methods of disposal into the waters of the State is prohibited.
11. The discharge of any radiological, chemical, or biological warfare agent into waters of the State is prohibited.
12. The discharge of waste into a natural or excavated site below historic water levels is prohibited unless the discharge is authorized by the Regional Board.
13. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
14. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.
15. The discharge of untreated sewage from vessels to San Diego Bay is prohibited.
16. The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at mean lower low water (MLLW) is prohibited.
17. The discharge of treated sewage from vessels, which do not have a properly functioning U. S. Coast Guard certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at MLLW is prohibited.

ATTACHMENT NO. 3

STANDARD PROVISIONS

1. The following sections of 40 CFR are incorporated into this permit by reference:
 - a. 122.5 *Effect of a permit*
 - b. 122.21 *Application for a permit*
 - c. 122.22 *Signatories to permit applications and reports*
 - d. 122.41 *Conditions applicable to all permits*
 - e. 122.61 *Transfer of permits*
 - f. 122.62 *Modification or revocation of permits*
 - g. 122.63 *Minor modifications of permits*
 - h. 122.64 *Termination of permits*
2. *Review and revision of permit:* Upon application by any affected person, or on its own motion, the Regional Board may review and revise this permit. [CWC §13263(e)]
3. *Termination or modification of permit:* This permit may be terminated or modified for causes, including, but not limited to, all of the following:
 - (a) Violation of any condition contained in this permit.
 - (b) Obtaining this permit by misrepresentation, or failure to disclose fully all relevant facts.
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. [CWC §13381]
4. *Material change:* Not less than 180 days prior to any material change in the character, location, volume, or amount of waste discharge, the discharger shall submit a technical report describing such changes. Such changes include but are not limited to the following:
 - (a) Addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.
 - (b) Significant change in disposal method, e.g., change from land disposal to a direct discharge to water, or change in the method of treatment which would significantly alter the characteristics of the waste.
 - (c) Significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area significantly removed from the original area potentially causing different water quality or nuisance problems.
 - (d) Increase in flow beyond that specified in the waste discharge requirements.
 - (e) Increase in area or depth to be used for solid waste disposal beyond that specified in the waste discharge requirements. [CWC 13372, 13376, 13264, 23 CCR 2210]
 - (f) Any substantial change in the amount or characteristics of pollutants used, handled, stored, or generated.
 - (g) Any new discharge of pollutants or new potential pollutant source.
 - (h) Other circumstances which could result in a material change in the character, amount, or location of discharges. [CWC 13372, 13264, 23 CCR 2210]

5. *Transfers*: When this permit is transferred to a new owner or operator, such requirements as may be necessary under the California Water Code may be incorporated into this permit.
6. *Conditions not stayed*: The filing of a request by the Discharger for modification, revocation and reissuance, or termination of this Order, or a notification of planned change in or anticipated noncompliance with this Order does not stay any condition of this Order.
7. *Monitoring and Reporting Program*: The Discharger shall conduct monitoring and submit reports in accordance with *Monitoring and Reporting Program (MRP) No. R9-2003-0140*. Monitoring results shall be reported at the intervals specified in *MRP No. R9-2003-0140*. [CWC 13267 & 13383, 23 CCR 2230, 40 CFR 122.43(a), 122.44(l)(4), 122.48]
8. *Availability*: A copy of this Order shall be kept at a readily accessible location at the facility and shall be available to on-site personnel at all times.
9. *Duty to minimize or correct adverse impacts*: The discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this Order, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
10. *Responsibilities, liabilities, legal action, penalties*: The Porter-Cologne Water Quality Control Act provides for civil and criminal penalties comparable to, and in some cases greater than, those provided for under the Clean Water Act (CWA). [CWC §13385, 13387]

Nothing in this Order shall be construed to protect the discharger from its liabilities under federal, state, or local laws. Except as provided for in 40 CFR 122.41(m) and (n), nothing in this Order shall be construed to relieve the discharger from civil or criminal penalties for noncompliance.

Nothing in this Order shall be construed to preclude the institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties to which the discharger is or may be subject to under Section 311 of the CWA.

Nothing in this Order shall be construed to preclude institution of any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authoring preserved by Section 510 of the CWA

11. *Noncompliance*: Any noncompliance with this permit constitutes violation of the California Water Code and is grounds for denial of an application for permit modification. [40 CFR 122.41 (a)]
12. *Discharge is a privilege*: No discharge of waste into waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights. [CWC §13263(g)]

13. *Permittee*: For the purposes of this permit, the term "permittee" used in parts of 40 CFR incorporated into this permit by reference and/or applicable to this permit shall have the same meaning as the term "discharger" used elsewhere in this permit.
14. *Effective date*: This Order shall become effective ten days after the date of its adoption provided the USEPA Regional Administrator has no objection. If the Regional Administrator objects to its issuance, this Order shall not become effective until such objection is withdrawn.
15. *Expiration*: This Order expires August 13, 2008. [40 CFR 122.43, 122.44(h), 122.46]
16. *Continuation of expired permit*: After this permit expires, the terms and conditions of this permit are automatically continued pending issuance of a new permit if all requirements of the federal NPDES regulations on the continuation of expired permits are complied with. [40 CFR 122.6, 23 CCR 2235.4]
17. *Applications*: Any application submitted by the discharger for reissuance or modification of this permit shall satisfy all applicable requirements specified in federal regulations as well as any additional requirements for submittal of a Report of Waste Discharge specified in the California Water Code and the California Code of Regulations.
18. *Confidentiality*: Except as provided for in 40 CFR 122.7, no information or documents submitted in accordance with or in application for this permit will be considered confidential, and all such information and documents shall be available for review by the public at the office of the Regional Board.
19. *Severability*: The provisions of this order are severable, and if any provision of this Order, or the application of any provisions of this Order to any circumstance, is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby.
20. *Discharge Monitoring Quality Assurance (DMQA) Program*: Then Discharger shall conduct appropriate analyses on any sample provided by EPA as part of the DMQA program. The results of such analyses shall be submitted to EPA's DMQA manager. [SWRCB/USEPA 106 MOA]
21. *Pollution, Contamination, Nuisance*: The handling, transport, treatment, or disposal of waste or the discharge of waste to waters of the state in a manner which causes or threatens to cause a condition of pollution, contamination, or nuisance, as those terms are defined in CWC 13050, is prohibited.
22. *Additional Reporting Requirements*: [40 CFR 122.42(a)] In addition to the reporting requirements under 40 CFR 122.41 (l), all existing manufacturing, commercial, mining, and silvicultural discharges must notify the Regional Board as soon as they know or have reason to believe:
 - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, of that discharge will exceed the highest of the following "notification levels:"

- (a) One hundred micrograms per liter (100 µg/l);
 - (b) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (c) The level established by the Regional Board in accordance with 40 CFR 122.44(f).
 - (2) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:"
 - (a) Five hundred micrograms per liter (500 µg/l)
 - (b) One milligram per liter (1 mg/l) for antimony;
 - (c) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - (d) The level established by the Regional Board in accordance with 40 CFR 122.44(f).
24. *Report Submittal:* The discharger shall submit reports and provide notifications as required by this Order in accordance with the following:
- a. Reports required to be submitted to this Regional Board shall be sent to:

Industrial Compliance Unit
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court
San Diego, California 92123-4340
 - b. Notifications required to be provided to this Regional Board shall be made to:

Telephone - (858) 467-2952 or Facsimile - (858) 571-6972
 - c. Reports required to be submitted to the USEPA shall be sent to:

U.S. Environmental Protection Agency
Region IX
Compliance Office, WTR-7 (DMR)
75 Hawthorne Street
San Francisco, California 94105